

CHAPTER 362

HEALTH AND ENVIRONMENT

SENATE BILL 19-192

BY SENATOR(S) Winter and Priola, Court, Foote, Moreno, Williams A.;
 also REPRESENTATIVE(S) Jackson and Cutter, Arndt, Bird, Duran, Galindo, Gonzales-Gutierrez, Hansen, Herod, Hooton,
 Kennedy, Kipp, Michaelson Jenet, Snyder, Valdez A., Becker.

AN ACT

CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION TO ADMINISTER A FEE-BASED WASTE DIVERSION GRANT PROGRAM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 25-16.5-111 as follows:

25-16.5-111. Front range waste diversion enterprise - legislative declaration - fund - goals - grant program - gifts, grants, or donations - definitions - repeal.

(1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY:

(a) FINDS THAT:

(I) COLORADO HAS ONE OF THE LOWEST RATES OF WASTE DIVERSION IN THE UNITED STATES, RECYCLING ONLY ABOUT TWELVE PERCENT OF OUR WASTE COMPARED TO THIRTY-FIVE PERCENT NATIONWIDE;

(II) COLORADO DISPOSED OF A RECORD AMOUNT OF TRASH IN LANDFILLS IN 2017, OVER NINE MILLION TONS, WHILE THERE WAS ESSENTIALLY NO INCREASE IN THE MUNICIPAL WASTE DIVERSION RATE;

(III) RECYCLING, REUSE, AND REMANUFACTURING CONTRIBUTE ALMOST NINE BILLION DOLLARS TO THE COLORADO ECONOMY ANNUALLY, YET WE ARE THROWING AWAY MORE THAN ONE-QUARTER BILLION DOLLARS WORTH OF RECYCLABLE MATERIAL SUCH AS ALUMINUM, CARDBOARD, PAPER, GLASS, AND PLASTICS ANNUALLY IN OUR LANDFILLS, WHICH MATERIAL COULD HAVE BEEN RECYCLED HERE IN COLORADO, THEREBY CREATING LOCAL JOBS AND STRENGTHENING LOCAL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ECONOMIES;

(IV) RECYCLING CREATES AN AVERAGE OF NINE TIMES MORE JOBS PER TON OF WASTE THAN DOES DISPOSAL IN A LANDFILL, AND IT IS ONE OF THE FASTEST, EASIEST, AND MOST COST-EFFECTIVE WAYS TO REDUCE GREENHOUSE GAS EMISSIONS;

(V) THE FRONT RANGE:

(A) GENERATES ABOUT EIGHTY-FIVE PERCENT OF THE WASTE STATEWIDE AND HAS MOST OF THE INFRASTRUCTURE IN PLACE TO DIVERT WASTE FROM LANDFILLS; AND

(B) HAS HIGHER DENSITIES OF WASTE GENERATORS AND RECYCLING FACILITIES THAN THE REST OF THE STATE AND THUS FEWER CHALLENGES REGARDING LONG DISTANCES TO RECYCLING FACILITIES AND MARKETS; AND

(VI) TO SUPPORT WASTE DIVERSION EFFORTS, THE AVERAGE FAMILY LIVING ALONG THE FRONT RANGE PAYS ABOUT EIGHTY-SIX CENTS PER YEAR IN THE FORM OF USER FEES ASSESSED AT FOURTEEN CENTS PER CUBIC YARD OF WASTE DISPOSED OF AT ATTENDED LANDFILLS, WHICH FEES ARE USED TO SUPPORT WASTE DIVERSION EFFORTS;

(b) DETERMINES THAT:

(I) WASTE DIVERSION HAS SUBSTANTIAL ECONOMIC AND ENVIRONMENTAL BENEFITS FOR THE STATE;

(II) THE OPPORTUNITY FOR IMPROVEMENT IS GREAT, YET THE FRONT RANGE LACKS:

(A) A SUFFICIENT FUNDING SOURCE TO MAKE THESE IMPROVEMENTS; AND

(B) COHERENT WASTE DIVERSION POLICY AT THE LOCAL LEVEL; AND

(III) IT IS IN THE STATE'S INTEREST TO PROVIDE FINANCIAL AND TECHNICAL ASSISTANCE TO COMMUNITIES TO REACH THEIR WASTE DIVERSION GOALS THROUGH A COMPETITIVE GRANT PROGRAM FINANCED BY AN INCREASE IN USER FEES; AND

(c) DECLARES THAT:

(I) PROVIDING A WASTE DIVERSION GRANT PROGRAM CONSTITUTES A VALUABLE SERVICE AND BENEFIT, AND THE FRONT RANGE WASTE DIVERSION ENTERPRISE PROVIDES USEFUL BUSINESS SERVICES TO WASTE GENERATORS, WHEN, IN EXCHANGE FOR PAYMENT OF INCREASED USER FEES, IT ISSUES GRANTS FINANCED BY THE FEES TO ENTITIES THAT PROMOTE WASTE DIVERSION;

(II) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (1)(b)(III) AND (1)(c)(I) OF THIS SECTION, THE ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

(III) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE USER FEE COLLECTED BY THE ENTERPRISE IS A FEE, NOT A TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAID THE COSTS OF PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (1)(b)(III) AND (1)(c)(I) OF THIS SECTION TO WASTE GENERATORS THAT ULTIMATELY PAY THE FEE AND IS COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE WASTE GENERATORS;

(IV) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUE FROM THE USER FEES COLLECTED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(B); AND

(V) THIS SECTION IS NECESSARY TO PROVIDE INCENTIVES TO LOCAL GOVERNMENTS, FOR-PROFIT WASTE MANAGEMENT AND WASTE DIVERSION COMPANIES, INSTITUTIONS OF HIGHER EDUCATION, AND NONPROFIT WASTE DIVERSION ORGANIZATIONS.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ENTERPRISE.

(b) "DIVERSION" MEANS WASTE REDUCTION AND THE ACTIVITIES SPECIFIED IN SECTION 25-16.5-106.7 (4).

(c) "ELIGIBLE ENTITY" MEANS THE FOLLOWING ENTITIES LOCATED OR PROVIDING SERVICES IN THE FRONT RANGE:

(I) MUNICIPALITIES, COUNTIES, AND CITIES AND COUNTIES;

(II) NONPROFIT AND FOR-PROFIT BUSINESSES INVOLVED IN WASTE DISPOSAL OR DIVERSION; AND

(III) INSTITUTIONS OF HIGHER EDUCATION AND PUBLIC OR PRIVATE SCHOOLS.

(d) "ENTERPRISE" MEANS THE FRONT RANGE WASTE DIVERSION ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

(e) "FEE" OR "FEES" MEANS MONEY COLLECTED BY MEANS OF THE USER FEE AUTHORIZED BY SECTION 25-16-104.5 (3.9)(c).

(f) "FRONT RANGE" MEANS THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER,

DOUGLAS, ELBERT, EL PASO, JEFFERSON, LARIMER, PUEBLO, TELLER, AND WELD AND THE CITIES AND COUNTIES OF BROOMFIELD AND DENVER.

(g) "FUND" MEANS THE FRONT RANGE WASTE DIVERSION CASH FUND CREATED IN SUBSECTION (4) OF THIS SECTION.

(h) "GRANT PROGRAM" MEANS THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM CREATED IN SUBSECTION (6) OF THIS SECTION.

(3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE DEPARTMENT THE FRONT RANGE WASTE DIVERSION ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT FOR THE PURPOSE OF COLLECTING THE FEE CHARGED TO WASTE GENERATORS AND USING THE FEE TO PROVIDE GRANTS AND TECHNICAL ASSISTANCE TO PROMOTE WASTE DIVERSION. THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24.

(b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(c) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE TO:

(I) COLLECT THE FEE;

(II) PROMOTE WASTE DIVERSION BY PROVIDING TECHNICAL ASSISTANCE AND ISSUING GRANTS AS SPECIFIED IN SUBSECTION (6) OF THIS SECTION;

(III) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE ENTERPRISE TO PROMOTE THE WASTE DIVERSION PURPOSES SPECIFIED IN THIS SECTION;

(IV) PUBLISH EACH YEAR, ON THE DEPARTMENT'S WEBSITE AND AS OTHERWISE DEEMED APPROPRIATE BY THE BOARD, THE WASTE DIVERSION STRATEGIES THAT THE BOARD HAS PRIORITIZED FOR FUNDING THROUGH THE GRANT PROGRAM;

(V) ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS SECTION, INCLUDING ESTABLISHING APPLICATION, REVIEW, APPROVAL, REPORTING, AND OTHER REQUIREMENTS FOR GRANTS; AND

(VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL, INCLUDING THE DEPARTMENT AND THE ATTORNEY GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE

BOARD SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL GENERALLY AVOID USING SINGLE-SOURCE BIDS. THE DEPARTMENT SHALL PROVIDE OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION (3)(c)(VI).

(d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE BOARD CONSISTS OF THE FOLLOWING THIRTEEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT:

(I) ONE MEMBER REPRESENTING THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT;

(II) TWO MEMBERS REPRESENTING THE DEPARTMENT, ONE WITH EXPERTISE IN SUSTAINABILITY AND ONE WITH EXPERTISE IN COMPLIANCE;

(III) TWO MEMBERS REPRESENTING FRONT RANGE MUNICIPALITIES;

(IV) TWO MEMBERS REPRESENTING FRONT RANGE COUNTIES; AND

(V) SIX MEMBERS, BALANCED EQUALLY, TO THE EXTENT PRACTICABLE, AMONG REPRESENTATIVES OF FRONT RANGE NONPROFIT AND FOR-PROFIT ENTITIES ENGAGED IN RECYCLING, REUSE, OR COMPOSTING ACTIVITIES, INCLUDING A LARGE WASTE HAULER OR LANDFILL OPERATOR, A SMALL WASTE HAULER OR LANDFILL OPERATOR, A PUBLICLY OWNED LANDFILL OPERATOR, A COMPOSTER, A CONSTRUCTION AND DEMOLITION RECYCLER, A MATERIALS RECOVERY FACILITY OPERATOR, AND ANY OTHER ENTITY THAT HAS KNOWLEDGE IN PROMOTING REUSE, RECYCLING, OR COMPOSTING.

(e) THE MEMBER APPOINTED PURSUANT TO SUBSECTION (3)(d)(II) OF THIS SECTION WITH EXPERTISE IN SUSTAINABILITY SHALL CALL THE FIRST MEETING OF THE BOARD. THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS, AS DETERMINED BY THE BOARD. THE BOARD SHALL MEET AT LEAST QUARTERLY AND THE CHAIR MAY CALL ADDITIONAL MEETINGS AS NECESSARY FOR THE BOARD TO COMPLETE ITS DUTIES. EACH MEMBER OF THE BOARD IS ENTITLED TO RECEIVE FROM MONEY IN THE FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH DAY SPENT ATTENDING OFFICIAL BOARD MEETINGS.

(f) THE TERM OF OFFICE OF BOARD MEMBERS IS THREE YEARS; EXCEPT THAT THE INITIAL TERMS OF MEMBERS APPOINTED PURSUANT TO SUBSECTION (3)(d)(V) OF THIS SECTION ARE TWO YEARS.

(4) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FRONT RANGE WASTE DIVERSION CASH FUND. THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS 25-16-104.5 (3.9)(c) AND 18-4-511 (4)(b) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(b) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE TO:

(I) ADMINISTER THE GRANT PROGRAM;

(II) AWARD GRANTS IN ACCORDANCE WITH THIS SECTION; AND

(III) PROVIDE TECHNICAL ASSISTANCE TO ELIGIBLE ENTITIES TO PROMOTE DIVERSION, INCLUDING THROUGH THE DEVELOPMENT AND IMPLEMENTATION OF POLICY.

(c) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(5) **Waste diversion goals.** THE ENTERPRISE SHALL ADMINISTER THE GRANT PROGRAM AND PROVIDE TECHNICAL ASSISTANCE TO ACHIEVE THE FOLLOWING MUNICIPAL WASTE DIVERSION GOALS WITHIN THE FRONT RANGE:

(a) THIRTY-TWO PERCENT DIVERSION BY 2021;

(b) THIRTY-NINE PERCENT DIVERSION BY 2026; AND

(c) FIFTY-ONE PERCENT DIVERSION BY 2036.

(6) **Grant program.** (a) THE ENTERPRISE SHALL ADMINISTER THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM AND, SUBJECT TO AVAILABLE APPROPRIATIONS AND REVENUES, SHALL AWARD GRANTS FROM THE FUND AS PROVIDED IN THIS SUBSECTION (6).

(b) THE PURPOSE OF THE GRANT PROGRAM IS TO ACHIEVE THE GOALS SPECIFIED IN SUBSECTION (5) OF THIS SECTION BY PROVIDING ECONOMIC AND TECHNICAL ASSISTANCE TO ELIGIBLE ENTITIES IN THEIR EFFORTS TO REDUCE WASTE, RECOVER VALUABLE RESOURCES, AND INCREASE THE DIVERSION OF MUNICIPAL AND NONMUNICIPAL SOLID WASTE MATERIALS, INCLUDING MATTRESSES, CONSTRUCTION AND DEMOLITION WASTE, ELECTRONICS, APPLIANCES, AND ORGANIC WASTE. THE BOARD SHALL ESTABLISH CRITERIA USED TO EVALUATE AND PRIORITIZE APPLICATIONS FOR GRANTS, BASED ON THE CURRENT MOST EFFECTIVE AND RELEVANT WASTE DIVERSION STRATEGIES OR POLICIES, INCLUDING:

(I) IMPLEMENTING PAY-AS-YOU-THROW RATE STRUCTURES FOR RESIDENTIAL SINGLE-FAMILY RECYCLING;

(II) INCREASED RECYCLING SERVICE FOR COMMERCIAL-SECTOR BUSINESSES;

(III) CURBSIDE RECYCLING FOR RESIDENTS, WITH THE RECYCLING FEE EMBEDDED IN THE RESIDENTS' BILLS;

(IV) COLLECTION OF ORGANICS SUCH AS YARD WASTE AND FOOD WASTE FROM RESIDENTS AND FOOD-SERVICE BUSINESSES;

(V) POLICIES AND PROGRAMS TO EXPAND CONSTRUCTION AND DEMOLITION RECYCLING;

(VI) THE STANDARDIZATION OF DIVERSION POLICIES AND PRACTICES, TO THE

EXTENT PRACTICABLE, INCLUDING THROUGH THE USE OF SIMILAR SIGNAGE, COLORS, AND BINS AND HOLDING PERIODIC DIVERSION EVENTS AT PREDICTABLE TIMES AND PLACES;

(VII) THE REMEDIATION OF ILLEGAL WASTE DISPOSAL SITES; AND

(VIII) SYSTEMS TO TRACK DIVERSION RATES, BASED ON BEST PRACTICES DEVELOPED BY THE BOARD AND THE DEPARTMENT, AND STRATEGIC MATERIALS MANAGEMENT PLANS ON THE LOCAL AND REGIONAL LEVELS.

(c)(I) AN ELIGIBLE ENTITY MAY SUBMIT AN APPLICATION TO THE ENTERPRISE FOR A GRANT PURSUANT TO THE POLICIES AND PROCEDURES SPECIFIED BY THE BOARD. AN ELIGIBLE ENTITY MAY APPLY EVEN IF THE ENTITY HAS ALREADY REACHED THE DIVERSION GOALS SET OUT BY THE INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT PLAN, AS AMENDED, ADOPTED BY THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302 IF APPROVING THE APPLICATION WILL FURTHER REDUCE WASTE, RECOVER VALUABLE RESOURCES, AND INCREASE DIVERSION. AT A MINIMUM, AN APPLICATION MUST INCLUDE THE FOLLOWING INFORMATION:

(A) AN APPLICATION NARRATIVE THAT DESCRIBES THE PROJECT TO BE FINANCED BY THE GRANT, INCLUDING A DEMONSTRATION OF HOW THE PROJECT PROMOTES ACHIEVEMENT OF THE DIVERSION GOALS SPECIFIED IN SUBSECTION (5) OF THIS SECTION AND THE CRITERIA ESTABLISHED BY THE BOARD;

(B) THE AMOUNT OF IN-KIND CONTRIBUTIONS OR MATCHING FUNDS, IF ANY, TO THE PROJECT BUDGET FROM THE APPLICANT OR OTHER SOURCES OUTSIDE OF THE GRANT; AND

(C) WHETHER THERE IS LOCAL COMMUNITY SUPPORT FOR THE GRANT APPLICATION.

(II) THE POLICES AND PROCEDURES SPECIFIED BY THE BOARD MUST INCLUDE THE FOLLOWING LIMITATIONS FOR GRANT APPLICANTS THAT ARE EITHER A WASTE HAULER OR A LANDFILL OWNER OR OPERATOR, WHICH THE BOARD SHALL APPLY ONLY TO THE PORTIONS OF AN APPLICATION THAT RELATE TO INFRASTRUCTURE OR EQUIPMENT:

(A) ONLY FIFTY PERCENT OF INFRASTRUCTURE OR EQUIPMENT CAN BE FUNDED THROUGH THE GRANT PROGRAM;

(B) IF THE BOARD AWARDS A GRANT TO A WASTE HAULER OR LANDFILL OWNER OR OPERATOR FOR INFRASTRUCTURE OR EQUIPMENT, THE GRANTEE IS INELIGIBLE TO RECEIVE A GRANT FOR THE FOLLOWING FIVE YEARS.

(d) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH THE GRANT PROGRAM FOR STAFFING, SUPPLIES, EQUIPMENT, MARKETING AND COMMUNICATIONS, POLICY RESEARCH AND DEVELOPMENT, COMMUNITY ENGAGEMENT, AND PROGRAMMING AND SERVICES RELATED TO THE CRITERIA ESTABLISHED BY THE BOARD.

(e) THE BOARD SHALL:

(I) USE ITS BEST EFFORTS TO AWARD GRANTS WITHIN NINETY DAYS AFTER RECEIPT OF APPLICATIONS;

(II) NOT ALLOCATE MORE THAN TWENTY PERCENT OF THE ANNUAL FUND REVENUE IN ANY SINGLE GRANT AWARD;

(III) INCLUDE A SCOPE OF WORK, INCLUDING MILEPOSTS AND DEADLINES FOR ACHIEVEMENT OF SPECIFIED GOALS, IN GRANT AWARD AGREEMENTS; AND

(IV) DETERMINE THE CRITERIA FOR MEASURING PROGRESS, WHICH MAY INCLUDE DIVERSION RATES, PARTICIPATION RATES, AND OTHER QUALITATIVE AND QUANTITATIVE METHODS. THE BOARD SHALL CONSIDER A GRANTEE'S PROGRESS IN ISSUING FURTHER GRANTS TO THE GRANTEE.

(f) (I) A GRANTEE SHALL REPORT ANNUALLY TO THE BOARD ON THE PROGRESS OF THE PROJECT FINANCED BY THE GRANT PURSUANT TO TERMS SPECIFIED IN THE GRANT AWARD AGREEMENT.

(II) THE BOARD SHALL DEVELOP A POLICY REGARDING A GRANTEE'S NONCOMPLIANCE WITH THE GRANT AGREEMENT ENTERED INTO BY THE GRANTEE AND THE BOARD, WHICH POLICY MAY INCLUDE A MECHANISM FOR THE BOARD TO CONVERT THE GRANTEE'S GRANT TO A LOAN WITH INTEREST.

(7) **Reporting.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE BOARD SHALL SUBMIT A REPORT BY JULY 1 OF EACH YEAR TO THE COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER THE ENVIRONMENT REGARDING:

(a) THE UNOBLIGATED BALANCE OF THE FUND, THE NUMBER OF GRANT APPLICATIONS, AND THE NUMBER OF GRANTS AWARDED;

(b) THE ELIGIBLE ENTITIES THAT HAVE APPLIED FOR A GRANT, THE ACTIONS TAKEN BY EACH GRANTEE, THEIR DIVERSION RATES AND OTHER MEASUREMENTS OF SUCCESS, AND THE AMOUNT OF GRANT MONEY DISTRIBUTED TO EACH GRANTEE;

(c) THE PROGRESS TOWARD ACHIEVEMENT OF THE DIVERSION GOALS SPECIFIED IN SUBSECTION (5) OF THIS SECTION AND THE PRIMARY FACTORS FACILITATING AND INHIBITING THAT PROGRESS; AND

(d) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

(8) (a) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029.

(b) THE STATE TREASURER SHALL TRANSFER ANY MONEY REMAINING IN THE FUND ON SEPTEMBER 1, 2029, TO THE GENERAL FUND.

SECTION 2. In Colorado Revised Statutes, 25-16-104.5, **add** (3.9)(c) as follows:

25-16-104.5. Solid waste user fee - imposed - rate - legislative declaration - repeal. (3.9) (c) (I) SUBJECT TO SUBSECTIONS (1.5) AND (3.9)(c)(VI) OF THIS SECTION, IN ADDITION TO ANY OTHER USER FEE IMPOSED BY THIS SECTION, ON OR AFTER SEPTEMBER 1, 2019, THERE IS HEREBY IMPOSED A USER FEE TO FINANCE THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM CREATED IN SECTION 25-16.5-111. AT THE TIME OF DISPOSAL, THE OPERATOR OF AN ATTENDED SOLID WASTE DISPOSAL SITE LOCATED IN THE FRONT RANGE, AS THAT TERM IS DEFINED IN SECTION 25-16.5-111 (2)(f), SHALL COLLECT THE FEE, WHICH MAY BE PASSED THROUGH TO WASTE PRODUCERS AND OTHER PERSONS DISPOSING OF WASTE, IN AN AMOUNT PER CUBIC YARD PER LOAD TRANSPORTED BY ANY COMMERCIAL VEHICLE, OR BY OTHER VEHICLE NOT INCLUDED IN THE VEHICLES DESCRIBED IN SUBSECTION (3.9)(a)(I) OR (3.9)(a)(II) OF THIS SECTION, AS SET FORTH IN THE FOLLOWING SCHEDULE EXCEPT AS MODIFIED BY SUBSECTION (3.9)(c)(II) OF THIS SECTION:

(A) FROM JANUARY 1, 2020, THROUGH DECEMBER 31, 2020, FIFTEEN CENTS PER CUBIC YARD PER LOAD;

(B) FROM JANUARY 1, 2021, THROUGH DECEMBER 31, 2021, THIRTY CENTS PER CUBIC YARD PER LOAD;

(C) FROM JANUARY 1, 2022, THROUGH DECEMBER 31, 2022, FORTY-FIVE CENTS PER CUBIC YARD PER LOAD; AND

(D) ON AND AFTER JANUARY 1, 2023, SIXTY CENTS PER CUBIC YARD PER LOAD.

(II) EFFECTIVE JANUARY 1, 2024, AND ON EACH SUCCEEDING JANUARY 1, THE AMOUNT OF THE FEE SPECIFIED IN SUBSECTION (3.9)(c)(I)(D) OF THIS SECTION IS ADJUSTED BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

(III) SUBSECTIONS (3.9)(c)(I)(A), (3.9)(c)(I)(B), AND (3.9)(c)(I)(C) OF THIS SECTION AND THIS SUBSECTION (3.9)(c)(III) ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2023.

(IV) SOLID WASTE DISPOSAL SITES OR FACILITIES LOCATED IN THE COUNTY OF CUSTER, FREMONT, MORGAN, OR OTERO SHALL COLLECT THE FEE SPECIFIED IN THIS SUBSECTION (3.9)(c) ON LOADS THAT ORIGINATE FROM THE FRONT RANGE, AS THAT TERM IS DEFINED IN SECTION 25-16.5-111 (2)(f).

(V) AN OPERATOR OF A SOLID WASTE DISPOSAL SITE OR FACILITY SUBJECT TO THIS SUBSECTION (3.9) SHALL TRANSMIT THE USER FEE COLLECTED PURSUANT TO THIS SUBSECTION (3.9)(c) BY THE LAST DAY OF THE MONTH FOLLOWING THE END OF EACH CALENDAR QUARTER TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE FRONT RANGE WASTE DIVERSION CASH FUND CREATED IN SECTION 25-16.5-111 (4) TO FINANCE THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM PURSUANT TO SECTION 25-16.5-111 (6).

(VI) AN OPERATOR OF AN ATTENDED SOLID WASTE DISPOSAL SITE LOCATED IN THE FRONT RANGE NEED NOT COLLECT THE FEE SPECIFIED IN THIS SUBSECTION

(3.9)(c) ON A LOAD THAT CONTAINS ANY OF THE FOLLOWING MATERIALS THAT ARE SEPARATED OUT FROM THE REST OF THE LOAD: ASBESTOS-CONTAINING MATERIAL, ASBESTOS WASTE, FRIABLE ASBESTOS-CONTAINING MATERIAL AS THAT TERM IS DEFINED IN SECTION 25-7-502 (6), FRIABLE ASBESTOS, NONFRIABLE ASBESTOS WASTE, REGULATED ASBESTOS-CONTAMINATED SOIL, NONREGULATED ASBESTOS-CONTAMINATED SOIL, PATHOLOGICAL WASTE, PHARMACEUTICAL WASTE, ASH, BIOHAZARDOUS WASTE, INFECTIOUS WASTE AS THAT TERM IS DEFINED IN SECTION 25-15-402 (1)(a), MEDICAL WASTE, EXPLORATION AND PRODUCTION WASTE AS THAT TERM IS DEFINED IN SECTION 30-20-109 (1.5)(a)(I), TECHNOLOGICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE MATERIAL AS THAT TERM IS DEFINED IN SECTION 25-11-201 (1)(f), GRIT AND SLUDGE, AUTOMOBILE SHREDDER RESIDUE, DEAD ANIMALS, SPECIAL WASTE LIQUIDS, OR CONTAMINATED SOILS.

(VII) THIS SUBSECTION (3.9)(c) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029.

SECTION 3. In Colorado Revised Statutes, 18-4-511, **amend** (4) as follows:

18-4-511. Littering of public or private property - repeal. (4) (a) Except as otherwise provided in SUBSECTION (4)(b)(I) OF THIS SECTION AND sections 33-15-108 (2) and 42-4-1406, ~~C.R.S.~~, littering is a class 2 petty offense punishable, upon conviction, by a mandatory fine of not less than twenty dollars nor more than five hundred dollars upon a first conviction, by a mandatory fine of not less than fifty dollars nor more than one thousand dollars upon a second conviction, and by a mandatory fine of not less than one hundred dollars nor more than one thousand dollars upon a third or subsequent conviction.

(b) (I) ON AND AFTER JANUARY 1, 2020, THE MANDATORY FINES SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION ARE ADJUSTED ANNUALLY BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CLERK OF THE COURT SHALL TRANSMIT THE AMOUNT OF THE FINE ATTRIBUTABLE TO THE ADJUSTMENT SPECIFIED IN THIS SUBSECTION (4)(b)(I) TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE FRONT RANGE WASTE DIVERSION CASH FUND CREATED IN SECTION 25-16.5-111 (4).

(II) THIS SUBSECTION (4)(b) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: May 30, 2019